

Attachment A

FILED

JAN - 8 2014

U.S. DISTRICT COURT-WVND
WHEELING, WV 26003

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

Justin Todd Totten

Your full name

STATE CIVIL RIGHTS COMPLAINT
PURSUANT TO 42 U.S.C. § 1983

v.

Civil Action No.: Z : 14 - CV - 2
(To be assigned by the Clerk of Court)

James Rubenstein
Dr. Karl Hoffman Prime care
Dr. Hahn, Dr. Tann
Cecilia Janiszewski

Bailey / Seibert / Blaback
HJHBorg

Enter above the full name of defendant(s) in this action

I. JURISDICTION

This is a civil action brought pursuant to **42 U.S.C. § 1983**. The Court has jurisdiction over this action pursuant to Title 28 U.S.C. §§ 1331 and 2201.

II. PARTIES

In Item A below, place your full name, inmate number, place of detention, and complete mailing address in the space provided.

A. Your Name: Justin Todd Totten
Inmate No.: 54763
Address: 112 NRC Drive Moundsville, WV 26041

In Item B below, place the full name of each defendant, his or her official position, place of employment, and address in the space provided.

B. Name of Defendant: James Rubenstein

Attachment A

Position: Commissioner of Corrections
Place of Employment: D.O.C.
Address: 1409 Greenbrier St. Charleston, WV 25311

Was this Defendant acting under the authority or color of state law at the time these claims occurred? ☐ Yes ☒ No

If your answer is "YES," briefly explain: _____

B.1 Name of Defendant: Karl Hoffman
Position: President of Prime care
Place of Employment: Prime care
Address: 3940 Locust Lane, Harrisburg, ^{PA} ~~MD~~ 17109

Was this Defendant acting under the authority or color of state law at the time these claims occurred? ☐ Yes ☒ No

If your answer is "YES," briefly explain: _____

B.2 Name of Defendant: Jerry Hahn
Position: Doctor
Place of Employment: Prime care
Address: 3940 Locust Lane Harrisburg, PA 17109

Attachment A

Was this Defendant acting under the authority or color of state law at the time these claims occurred? ☐ Yes ☒ No

If your answer is "YES," briefly explain: _____

B.3 Name of Defendant: Doctor Tann
Position: out side consultant of prime care
Place of Employment: _____
Address: _____

Was this Defendant acting under the authority or color of state law at the time these claims occurred? ☐ Yes ☒ No

If your answer is "YES," briefly explain: _____

B.4 Name of Defendant: Cecilia Janiszewski
Position: Director of Medical for Northern corr. center
Place of Employment: 112 NRC Drive Moundsville WV, 26041
Address: Northern corr facility 112 NRC Drive, Moundsville WV 26041

Was this Defendant acting under the authority or color of state law at the time these claims occurred? ☐ Yes ☒ No

If your answer is "YES," briefly explain: _____

Attachment A

B.5 Name of Defendant: Karen Pszczolkowski
Position: Warden
Place of Employment: Northern corr. facility
Address: 112 NRC Drive, Moundsville WV 2604

Was this Defendant acting under the authority or color of state law at the time these claims occurred? ☐ Yes ☒ No

If your answer is "YES," briefly explain: _____

III. PLACE OF PRESENT CONFINEMENT

Name of Prison/Institution: Northern Correctional Facility

A. Is this where the events concerning your complaint took place?
☒ Yes ☐ No

If you answered "NO," where did the events occur?

B. Is there a prisoner grievance procedure in the institution where the events occurred? ☒ Yes ☐ No

C. Did you file a grievance concerning the facts relating to this complaint in the prisoner grievance procedure? ☒ Yes ☐ No

D. If your answer is "NO," explain why not _____

Attachment A

- _____

- E. If your answer is "YES," identify the administrative grievance procedure number(s) in which the claims raised in this complaint were addressed and state the result at level one, level two, and level three. **ATTACH GRIEVANCES AND RESPONSES:**

LEVEL 1 Unit Manager

LEVEL 2 Warden

LEVEL 3 Commissioner

IV. **PREVIOUS LAWSUITS AND ADMINISTRATIVE REMEDIES**

- A. Have you filed other lawsuits in state or federal court dealing with the same facts involved in this action? ☐ Yes ☐ No
- B. If your answer is "YES", describe each lawsuit in the space below. If there is more than one lawsuit, describe additional lawsuits using the same format on a separate piece of paper which you should attach and label: "TV PREVIOUS LAWSUITS"

1. Parties to this previous lawsuit:

Plaintiff(s): _____

Defendant(s): _____

2. Court: _____
(If federal court, name the district; if state court, name the county)

3. Case Number: _____

4. Basic Claim Made/Issues Raised: _____

5. Name of Judge(s) to whom case was assigned: _____

Attachment A

6. Disposition: _____
(For example, was the case dismissed? Appealed? Pending?)
7. Approximate date of filing lawsuit: _____
8. Approximate date of disposition. **ATTACH COPIES**
- C. Did you seek informal or formal relief from the appropriate administrative officials regarding the acts complained of in Part B? ☒ Yes ☐ No
- D. If your answer is "YES," briefly describe how relief was sought and the result. If your answer is "NO," explain why administrative relief was not sought.
_____ Sought proper medical treatment.
_____ None was given

- E. Did you exhaust available administrative remedies? ☒ Yes ☐ No
- F. If your answer is "YES," briefly explain the steps taken and attach proof of exhaustion. If your answer is "NO," briefly explain why administrative remedies were not exhausted.
_____ Grievance Process

- G. If you are requesting to proceed in this action *in forma pauperis* under 28 U.S.C. § 1915, list each civil action or appeal you filed in any court of the United States while you were incarcerated or detained in any facility that was dismissed as frivolous, malicious, or for failure to state a claim upon which relief may be granted. Describe each civil action or appeal. If there is more than one civil action or appeal, describe the additional civil actions or appeals using the same format on a separate sheet of paper which you should attach and label "G. PREVIOUSLY DISMISSED ACTIONS OR APPEALS"

Attachment A

1. Parties to previous lawsuit:

Plaintiff(s): _____

Defendant(s): _____

2. Name and location of court and docket number:

3. Grounds for dismissal: ☐ frivolous ☐ malicious
☐ failure to state a claim upon which relief may be granted

4. Approximate date of filing lawsuit: _____

5. Approximate date of disposition: _____

V. STATEMENT OF CLAIM

State here, as **BRIEFLY** as possible, the facts of your case. Describe what each defendant did to violate your constitutional rights. **You must include allegations of specific wrongful conduct as to EACH and EVERY defendant in the complaint.** Include also the names of other persons involved, dates, and places. Do not give any legal arguments or cite any cases or statutes. If you intend to allege a number of related claims, you must number and set forth each claim in a separate paragraph. **UNRELATED CLAIMS MUST BE RAISED IN A SEPARATE CIVIL ACTION. NO MORE THAN FIVE (5) TYPED OR TEN (10) NEATLY PRINTED PAGES MAY BE ATTACHED TO THIS COMPLAINT. (LR PL 3.4.4)**

CLAIM 1: Negligence; Deliberate Indifference;
Cruel and unusual Punishment.

Supporting Facts: July, 8, 2013 Plaintiff was Denied
Proper Medical treatment for his pain.
See Exhibit (B)(1)

Attachment A

CLAIM 2: Negligence; Deliberate Indifference; Cruel and unusual punishment

Supporting Facts: ~~July, 11, 2013~~ June, 11, 2013
Plaintiff seen by medical dept. Nurse noted two hernias. Plaintiff sent back to pod with NO relief.
See Exhibit (B) (1)

CLAIM 3: Negligence; Deliberate Indifference; Cruel unusual punishment.

Supporting Facts: Between June 14th - 27th medical dept. still denied treatment to plaintiff after his multiple attempts to seek help.
See Exhibit

CLAIM 4: ~~June, 27th 2013~~ Negligence; Deliberate Indifference; Cruel and unusual punishment.

Supporting Facts: June 27th 2013. Plaintiff evaluated by ~~defendant~~ Chad Hott. Hott made note of two hernias. Plaintiff again expressed his pain. No treatment was given. Plaintiff sent back to pod

CLAIM 5: Negligence; Deliberate Indifference; Cruel and unusual punishment.
See Exhibit (B) (2)

Supporting Facts: on or about November, 11, 2013. Defendant made known he did not feel plaintiff needs surgery despite the plaintiff's severe amounts of pain.
see Exhibit (B) (2)

VI. INJURY

Attachment A

Describe **BRIEFLY and SPECIFICALLY** how you have been injured and the exact nature of your damages.

My Hernias have gotten bigger and more painful.
I've gained weight due to inability to exercise or move
around. Causing me mental anguish as well as stress.

VII. RELIEF

State **BRIEFLY and EXACTLY** what you want the Court to do for you.

Make no legal arguments. Cite no cases or statutes.

Ⓢ Proper medical treatment, Relief from pain,
Medical compensation, what all damages a jury
may decide on punitively

DECLARATION UNDER PENALTY OF PERJURY

The undersigned declares under penalty of perjury that he/she is the plaintiff in the above action, that he/she has read the above complaint and that the information contained in the complaint is true and accurate. Title 28 U.S.C. § 1746; 18 U.S.C. § 1621.

Executed at Northern corr. Facility on 12/17/13
(Location) (Date)

Justin Totten
Your Signature

